

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JOHN R. JORDAN, Jr.,

Plaintiff,

No. CIV S-03-1820 LKK KJM P

vs.

CAL A. TERHUNE, et al.,

Defendants.

ORDER

Plaintiff is a state prison inmate proceeding pro se with a civil rights action under 42 U.S.C. § 1983. On October 18, 2007, plaintiff filed a “notice of non-receipt of . . . deposition transcript and defendants possible misconduct-trickery.” In this document, plaintiff complains that counsel for defendants averred that plaintiff’s deposition transcript had been mailed to him on October 2 for corrections, but that he has not yet received it. Counsel for defendant Rohlfing has provided a copy of a letter from the deposition reporter to plaintiff, in care of the litigation coordinator. It is unclear what relief petitioner seeks in this filing, except to complain about actions already taken in this case. Accordingly, the notice, to the extent it can be construed as a motion, is denied for failing to comply with Federal Rule of Civil Procedure 7(b).

Plaintiff has requested the appointment of counsel. The United States Supreme Court has ruled that district courts lack authority to require counsel to represent indigent

1 prisoners in § 1983 cases. Mallard v. United States Dist. Court, 490 U.S. 296, 298 (1989). In
2 certain exceptional circumstances, the court may request the voluntary assistance of counsel
3 pursuant to 28 U.S.C. § 1915(e)(1). Terrell v. Brewer, 935 F.2d 1015, 1017 (9th Cir. 1991);
4 Wood v. Housewright, 900 F.2d 1332, 1335-36 (9th Cir. 1990). In the present case, the court
5 does not find the required exceptional circumstances. Plaintiff's motion for the appointment of
6 counsel will therefore be denied.

7 Accordingly, IT IS HEREBY ORDERED that:

8 1. Plaintiff's October 18, 2007 request is denied.

9 2. Plaintiff's November 2, 2007 motion for the appointment of counsel is denied.

10 DATED: November 9, 2007.

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12 U.S. MAGISTRATE JUDGE

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